

Minutes
State Board of Education
Monday, August 25, 2003

The Arizona State Board of Education held its monthly meeting at the Arizona Department of Education, 1535 W. Jefferson Ave., Phoenix, 85007. This meeting began at approximately 9:05AM. Several Board members had to leave prior to adjournment of the meeting, including: Dr. Crow, Ms. Hoover and Ms. Kasper.

Members Present

Dr. Wade McLean, President
Ms. Nadine Mathis Basha, Vice President
Superintendent Horne
Ms. Armida G. Bittner
Dr. Michael Crow
Ms. Conkie Hoover
Ms. JoAnne Hilde
Ms. Catherine Kasper

Members Absent

Dr. Matthew Diethelm

Board Business:

Pledge of Allegiance, Moment of Silence, Roll Call

Minutes Approval:

Ms. Hilde made the motion to approve the June 30, 2003 minutes, June 30, 2003 executive session minutes, and the August 5, 2003 study session minutes. Ms. Basha seconded. Motion carried.

Board Reports:

President's Report-

Dr. McLean stated that he has retired from the Marana Unified School District as their Superintendent and that this will be his last meeting serving as a State Board member. He then announced the Governor's new appointee to serve as the School District Superintendent representative on the Board, Superintendent John Pedicone from Flowing Wells School District. Dr. McLean reported that at the last Arizona Board of Regents meeting, he was thankful for Superintendent Horne's presentation on the collaboration and cooperation in developing a rubric to identify highly qualified teachers in Arizona.

Superintendent's Report-

Mr. Horne informed those in the audience that were English limited that the Board, on behalf of the Paradise Valley School District, has provided simultaneous translation equipment for the public's use during this meeting and its discussions.

Board Member Reports-

None

Executive Director's Report-

Ms. Farley updated the Board on rule status. The final CTE rules were certified by the Attorney General's office on Friday (August 22nd) and have been submitted to the Secretary of State. The Special Education rules being presented today require Board approval to change one minor technical statement and then shall be forwarded again to the Attorney General's office for approval and then passed on to the Secretary of State. The Early Childhood Certification Endorsement rules that were opened at the June meeting, will not be heard, as planned, at today's meeting due to delay in posting the draft on the web and community distribution; the rules will be discussed at the October meeting. Superintendent Horne, interjected, that ADE would begin its process on developing English Language Learner teacher certification rules this month. Ms. Farley continued to report that each Member has received a copy of the Board budget for review; stating that the Legislature has returned the Board's lump-sum budget appropriation and that staff now has flexibility to disperse funds appropriately. Additionally, Members have received an Investigations Unit budget proposal for discussion in the general session of today's meeting.

President McLean thanked Ms. Farley for providing the Board an overview of the office budget, stating that this was an issue that was important to him and was the first time the Board had seen their budget.

Consent Items:

President McLean requested that the Board remove consent item 3L, regarding consideration to revoke the certificate of William Stollar. Ms. Hoover made the motion to approve all Consent Items on the Board agenda with the exception of Item 3L. Ms. Bittner seconded. Motion carried. (Please see agenda for consent item material details)

Executive Session: At 9:45AM, President McLean requested that the Board make a motion to move into Executive Session. Ms. Basha moved that the Board go into Executive Session for English Language Learner and Certification Case Issues on the Board agenda - (final motion as clarified per Ms. Epstein's request for motion to state exact items to be discussed during the session). Ms. Hilde seconded. Motion carried. The Board reconvened the general session meeting at 10:20AM.

Call To The Public:

Nutrition Policy

For:

Dr. Robert I. Donofrio- Murphy SD
Federick Warren, Ed.D. - Roosevelt SD

Jeffrey Hampl- ASU

Dr. Harold Magalnick, M.D.-
Pediatrician

Pat MacArthur- John Jacobs Elem.

Need for Further Stakeholder

Meetings:

Janice Palmer- ASBA

Phil MacDonnell- AZ Soft Drink
Assn.

ELL Assessment

For:

ELL Waivers

For:

Johanna Haver

Against:

Delia Saenz

Jeff MacSwan- ASU

ESS Rules

Marc Osborn- (absent)

Assn. Of American Publishers

Arizona Learns

Concerned w/ Formula Delay:

John Wright- AEA

Janice Palmer- ASBA

HOUSE

For:

Call To The Public

ELL Issues:

Against Superintendent Guidelines

Silverio Garcia, Jr.- LULAC

Rosie Lopez- AZ Hispanic Community
Forum (AHCF)

Napoleon Pisano- AHCF

Liza Royan-Harvey

Support Superintendent Guidelines:

Cynthia Wong

AIMS:

Ronda Seifert – (absent)

Carmen Chenal

Against:

Edith Mendoza- Carver Elem.

Susan Kovarik- Parent

Margo Watie- Carver Elem.

Sylvia Ruiz-Montoya- Carver Elem.

Silvia Benitez- Parent

Leonard E. Tsasurt- U of A (retired)

Eugene Benton- Tucson USD (retired)

Anita Riehm- Osborn ESD

Linda Molina- TUSD (retired)

John Wright- AEA

Against:

Gary Nine-Apache Junction USD

General Session:

Change in Agenda: President McLean requested that the Board move General Session items 5H and 5I, both dealing with ELL issues, to the beginning of this agenda.

- *Consideration to Approve English Language Learner Parent/Guardian Waiver Request Form-*

Irene Moreno (Deputy Associate Superintendent of English Acquisition Services) presented to the Board the draft of the ELL waiver request form to be used by school districts for entrance into bilingual classrooms. Dr. Crow questioned whether the examination is only for non-English speaking students? ADE staff said that the test is only for students whose primary home language is other than English. Dr. Crow asked if the form was going to be provided in Spanish as well? ADE staff explained that there are various other language students, besides Spanish speaking students, that must be tested prior to use of a waiver, and that there are bilingual classes taught in- for instance- French and English, as well as Spanish and English. Dr. Crow replied that these other languages are not in the same concentration as Spanish and that ADE must communicate to parents more efficiently that these tests are given to other non-English proficient speakers versus singling out Spanish speakers. Four speakers addressed the Board (please see call to the public session) with their concerns and comments on the waiver and the complexity of understanding the language used in the waiver form. Some speakers stated that the form should be more straightforward and easy to interpret and mentioned that ADE should look at the Tucson Unified School District waiver form for guidance. ADE staff replied that school districts have asked for a more detailed form that includes specific language so the form will not be misused by schools. Ms. Bittner stated that this document is still in draft form and that the ADE must get more public comment and cooperation on this form before she feels comfortable to approve its use. Further, she stated that most parents that will be using this form do not have access to the web to view a draft and that more stakeholder meetings should be held to get community input. Superintendent Horne made a motion to accept the ELL waiver form, due to a lack of second, the motion failed. Ms. Bittner stated that this is too sensitive of a subject to accept this draft now. Ms. Basha stated that ADE should build consensus on this form and she would request the Board to remand this document back to the Department for modifications. Dr. Crow questioned, in response, if schools would use this form now? ADE staff stated that school has already begun and schools have probably used their own district form for enrollment in bilingual courses. Dr. Crow stated that the ADE should move quickly in establishing this form and getting it out to districts. Dr. McLean requested that the Board not take action at this time, to have the

stakeholders meet to address the concerns raised by the public and to bring any changes to this form to the Board at the September meeting. No Motion. Failed To Approve.

- *Consideration to Approve English Language Learner Assessments-*

Irene Moreno presented to the Board the ELL Assessments that require Board approval. Superintendent Horne made a motion to adopt the waiver request form as presented. Motion was seconded by Board Member Hilde. President McLean opened the floor for discussion and summarized the recommendation, saying that adoption of the motion would reaffirm a local district's ability to choose one of the four tests and in the future a single test will be developed as required by NCLB. Staff agreed. Dr. Crow asked if the test developed under the NCLB requirements will be given to all students? Ms. Moreno responded that the test is to test English fluency. Dr. Crow asked for clarification as to who will be tested? Ms. Moreno responded that English language learners will be tested. Dr. Crow confirmed that this test will not be given to native English speakers who may not be able to pass the test? Ms. Moreno responded that those students are not required to take the test under NCLB. Ms. Bittner asked for further clarification on the purpose of the test? Superintendent Horne responded that we have other tests that are given to all children, but this test is only for English language learner students. Public testimony focused on cut scores. Several persons stated that the Board should not approve any tests since no cut scores have been set for establishing proficiency based on the Flores Consent requirements. Other speakers stated that the Board should move forward with English Immersion versus bilingual education. Superintendent Horne indicated that the established fluency score is based on an Arizona average and that information has been provided to the Attorney General's Office and it is set at a reasonable level. Ms. Hilde asked about the timeline for the Arizona test. Ms. Moreno responded that the standards would be developed by September and test development would follow. Ms. Bittner clarified that Arizona will have its own test and Mr. Horne responded yes, and hopefully by the end of this school year. Superintendent Horne stated that the test will then come to the Board for approval. Ms. Bittner addressed the audience, announcing that she will be visiting several Tucson schools and will be looking into the ELL testing assessments. Ms. Hilde informed the Board that these are the tests that were previously approved by the Board in a rules package, however, as an appendix and now require separate Board confirmation of their use. Dr. Crow confirmed that approval of this item is therefore a temporary verification of the policies already in place while we're waiting for the single test; Superintendent Horne responded yes. Dr. McLean confirmed the motion on the table to approve the ELL assessments reconfirming that these are the Board approved tests for assessing English language proficiency and that Ms. Hilde had seconded the motion. Motion carried.

The Board took a short break at 12:00 p.m. and reconvened the meeting at 12:20 p.m.

- *Consideration of Negotiated Settlement Agreement and Letter of Censure for Mr. Hartman's Permanent Certification File-*

Craig Emanuel (Chief Investigator for SBE) provided previous Board action and background on this certification case. Mr. Hartman was present with his attorney Mr. Holder. Mr. Holder addressed the Board with his statements on Mr. Hartman's case. Ms. Bittner made a motion not to approve the settlement agreement and to remand the issue to staff to proceed with disciplinary action on Mr. Hartman's certificate. Motion failed due to lack of a second. Ms. Basha moved to

approve the negotiated settlement agreement and place a letter of censure in Mr. Hartman's permanent certification file. Dr. Crow seconded. Motion carried.

- *Consideration of PPAC Recommendation Regarding the Certification of Mr. Thompson-* Craig Emanuel (Chief investigator for SBE) again provided background for this case with the PPAC recommendations and findings. Mr. Thompson addressed the Board and provided comments on his application for certification and the PPAC review of his revocation of his peace officer certificate and statements he was alleged to have made at that time. Superintendent Horne moved to approve the recommendation of the PPAC and deny certification for Mr. Clayton Thompson based on the findings of fact indicating that Mr. Thompson's statements demonstrating a dislike of minorities is considered unprofessional conduct. Ms. Bittner seconded. Motion carried.

- *Consideration to Approve FY2005 State Board Investigation Unit Budget-* Ms. Farley and Craig Emanuel gave a presentation regarding the SBE Investigation Unit history, budget, caseload growth and reorganization. Ms. Farley stated that the Unit has experienced significant caseload growth and she is recommending a request for the FY2005 budget to addresses the Unit's need for another investigator and additional support services. Ms. Farley stated that staff, upon Board approval, would forward a request to the Legislature for an additional \$70,000 to \$100,000 for this purpose. Superintendent Horne made the motion to approve the FY2005 budget request to the Arizona Legislature for additional resources for the State Board Investigative Unit to manage caseload growth. Motion was seconded by Ms. Basha. Motion carried.

- *Discussion of Proposed ADE Nutrition Policy-*
Presented on behalf of the Nutrition Policy:

Dr. Robert I. Donofrio- Murphy SD

Federick Warren, Ed.D. - Roosevelt SD

Jeffrey Hampl- ASU

Dr. Harold Magalnick, M.D.- Pediatrician

Pat MacArthur- John Jacobs Elem.

Lynne Dulin (Director of School Nutrition Services) presented to the Board the DRAFT Nutrition Policy for discussion and comment. She stated that there are several presenters at the meeting that wish to explain their support for this policy. Three members of the audience spoke to the need to include more consensus and incorporation of various stakeholders- school governing board members, district officials and product distributors, to develop this policy before Board approval. Discussion only.

- *Consideration to Approve Arizona Highly Qualified Uniform State Standard of Evaluation (HOUSSE)-*

Ms. Wiebke (Deputy Associate Superintendent for Highly Qualified Professionals) introduced the HOUSSE rubric to the Board and provided background on the subcommittees work to revise this document, per the Board's recommendations from the August 5, 2003 Study Session. Ms. Bornfield (the Task Force Chair) presented details of the rubric and the instructions on how to complete the form. Ms. Kasper asked about music teachers and their ability to fill out the matrix

since music is not explicitly stated on the form. Ms. Bornfield stated that music teachers must first be a certificated teacher and then have a music endorsement. Additionally, for a music teacher, music is her subject content area and all experience shall apply to the rubric. Superintendent Horne expressed his interest in the Tennessee model and their inclusion of student data in the teacher evaluation tool. He stated that Tennessee uses a pre-test and post-test for each grade/subject level combination. Ms. Hilde stated that at this point, we should focus on what the federal government is asking for and continue to focus on content driven teacher quality versus value added student achievement data for teacher quality. Ms. Hilde also stated how pleased she was with the Task Force and their development of this rubric.

John Wright, Vice President of the Arizona Education Association, spoke in support of the rubric. He stated that the process was very inclusive and the rubric focuses on teachers bringing their knowledge into the classroom. Gary Nine spoke in opposition to the requirements defining the qualifications of a highly qualified teacher. He felt it is too process orientated and that the highly qualified designation should be based on research and longitudinal test score data. Ms. Wiebke finished the presentation by giving the Board Members some information to think about before the next State Board meeting. Ms. Hilde moved to approve the Housse rubric as allowed under the Federal NCLB Act for use by existing teachers to demonstrate highly qualified status under federal requirements. Ms. Bittner seconded. Motion carried.

At 1:30 p.m. the Board moved to go into Executive Session over lunch. The motion was made by Ms. Hilde and seconded by Dr. Crow. The Board reconvened the meeting at 2:20 p.m. The motion was made by Ms. Kasper and seconded by Ms. Basha.

- *Consideration to Approve Applications for Participation in the Technology Assisted Project Based Instruction Programs-*

Peoria Unified SD, Tucson Unified SD, Tempe Union High SD presented their proposals to the Board. Buckeye Union High SD was not present (please refer to TAPBI applications and tape 3 for further details on individual school presentations). After the presentations were complete, Ms. Hilde made a motion to approve Buckeye Union HSD, Tempe Union HSD, Tucson Unified SD, and Peoria Unified SD to participate in the Technology-Assisted Project-Based Instruction program. Seconded by Ms. Bittner

Ms. Hoover interjected that she felt that the Board should not approve Buckeye since they were not present and based on the review committees' scores, she personally felt that the Board should remove Buckeye from the motion.

Ms. Hoover then made a motion to approve an amended motion excluding Buckeye Union HSD from the approved schools list. Superintendent Horne seconded this motion. Motion carried.

Dr. McLean stated that the Board would reopen the application process for other schools or even Buckeye Union HSD to reapply for the remaining two available positions.

- *Consideration to Approve Modifications to the Arizona Learns Formula-*

Dr. Laczek-Kerr (Deputy Associate Superintendent of Research & Policy) presented proposed modifications to the AZ LEARNS formula. Seven ADE recommendations were presented to the Board (for detail on modification calculations, refer to AZ LEARNS Board packet).

1. Adequate Yearly Progress (AYP) for K-2 schools will be based on SAT 9 student performance and attendance rates. Superintendent Horne made the motion to adopt

- the Adequate Yearly Progress (AYP) methodology for K-2 schools as recommended by the ADE. Ms. Bittner seconded the motion. Motion carried. Dr. McLean voted no.
2. AYP for K-1 schools will be based on a comprehensive site visit. The Research and Policy unit are developing the evaluation rubric for use in 2004. Superintendent Horne made the motion to adopt the Adequate Yearly Progress (AYP) methodology for K-1 schools as recommended by the ADE. Ms. Bittner seconded the motion. Motion carried.
 3. AYP for extremely small schools will be evaluated based on aggregate data for reading and math for the assessed subject and grade combinations. Superintendent Horne made the motion to adopt the Adequate Yearly Progress (AYP) methodology for extremely small schools as recommended by the ADE. Motion was seconded by Ms. Basha. Motion carried.
 4. For AZ LEARNS) extremely small schools will be evaluated based on a comprehensive site visit. The ADE is still developing the evaluation rubric and estimates that extremely small schools will receive an AZ LEARNS Achievement Profile for the first time in 2004. Superintendent Horne made the motion to adopt the AZ LEARNS Achievement Profile methodology for extremely small schools as prescribed by the ADE. Ms. Basha seconded. Motion carried.
 5. For K-2 schools, AZ LEARNS profiles will be based on a comprehensive site visit, in which ADE is still developing for the first round of profiles in 2004. Superintendent Horne made the motion to adopt the AZ LEARNS Achievement Profile methodology for K-2 schools as prescribed by the ADE. Ms. Basha seconded the Superintendent's motion. Motion carried.
 6. New schools, who opened for the first time in Summer 2000, ADE will base an Achievement Profile based on a three year weighted average utilizing the Board modifications in 2003 with the exception of a one-year baseline analysis rather than a two-year baseline analysis. A new school must only have one overlapping year of test data to be evaluated for a profile. Superintendent Horne made the motion to adopt the calculation of the Achievement Profile for new schools as outlined in Option 1 of the Board material as recommended by the ADE. Ms. Hilde seconded this motion. Motion carried.
 7. Schools with Missing Data for any subject/grade combination shall receive a zero for the first year for that subject/grade combination in which data is missing. For future calculations of the Achievement Profile which contain the missing year previously counted as 0-MD, the ADE will apply the following rules by subject/grade combination: a) if a school has one year of missing baseline data, its baseline will be calculated using the single year of baseline data it does have, b) if a school has two years of missing baseline data it receives a 0. Growth points are calculated from a baseline of zero, but the school can only receive 30 percent weight for the growth point grouping. The baseline grouping reflecting the 0 must be counted as 70 percent weight, c) If a school has one year of the required data missing for the calculation of growth points, its growth points are calculated using two years of data (rather than three years of data), and d) if a school is missing two or more years of data required for the calculation of growth points, it receives a zero. Superintendent Horne made a motion to adopt the methodology for evaluating missing data in the Achievement

Profile calculation as outlined in the Board material. Ms. Bittner seconded. Motion carried.

- *Consideration to Approve Notice of Proposed Rulemaking for Special Education Rules, Regarding Due Process, Braille Literacy, Educational Interpreters-*

Ms. Farley presented to the Board, providing a brief background on the collaboration that took place to develop these rules. The Braille literacy portion of these rules was mandated by the State Legislature in 1997. She stated that the stakeholders had been working to develop a consensus on these rules, but that the AZ Commission for the Deaf and Hard of Hearing felt that the educational interpreter portion of the rules should include a mandated set of standards or qualifications that must be completed before achieving the status of an interpreter. Ms. Farley stated that the Board does not have the authority to prescribe actual certification for these individuals but the Board can establish qualification standards. She added that districts currently experience great difficulties in maintaining paraprofessionals and the proposed recommendation takes that into consideration. She suggested to the Commission that districts could develop a professional development program for the paraprofessionals and this would maintain local control within the districts. Ms. Farley stated that these rules also change the current two-tiered due process system to a one-tiered system to be handled by the Office of Administrative Hearing. The rules include the presumption that visually impaired students will be provided Braille literacy instruction unless it is specifically prescribed not to do so in the child's IEP. The Braille literacy portion of the rules mirrors the requirements set forth in statute and tries to anticipate federal guidance in this area as well as contain terms that are broad enough to adapt as technology improves. Superintendent Horne made the motion to approve the Notice of Proposed Rulemaking for State Board of Education Rules R7-2-405, 407, 610, and 620; regarding special education rules, including due process amendments, Braille Literacy, and educational interpreters. Ms. Hilde seconded this motion. Motion carried.

- *Consideration to Approve Amendment to Notice of Final Rulemaking for Special Education Rules; R7-2-401 – 404 and R7-2-408-*

Ms. Farley reported to the Board that the Attorney General's Office has requested that the Board delete specific wording as a technical change to these rules prior to their approval. The deletion appears in R7-2-401 (M) (2), removing "before an independent review panel of the Department." Superintendent Horne made the motion to approve the amendment to the Notice of Final Rulemaking for R7-2-401 – 404 and R7-2-408 regarding Exceptional Student Services as presented. Ms. Basha seconded the motion. Motion carried.

- *Consideration to Approve Notice of Supplemental Rulemaking for English Language Learners-*

Ms. Farley introduced this set of rules to the Board stating that what is being presented to the Board today is the consensus of the stakeholder group. Ms. Farley highlighted that the outstanding issue that does not have consensus is the section regarding assessing K-1 students in only oral and listening skills and assessing 2-12 students in oral, reading, listening and writing skills. Additionally, Ms. Farley described to the Board the changes to the process of ensuring compliance replacing withholding of state funds to withholding of federal funds. Ms. Farley reviewed issues raised late Friday afternoon by Mr. Tim Hogan, Executive Director for the Center for Public Policy. Mr. Hogan's concerns were with daily instruction hours in content

area, performing at state average on an NRT and what the proficiency score should be, and an alternative assessment on exited students. Ms. Hilde stated that Mr. Hogan's suggested changes should be brought back to the stakeholder group for their input before the Board takes action to include them in the rules package. Mr. Horne asked Ms. Hilde what she had the most difficulty with including at this meeting. Ms. Hilde stated that she felt the most apprehension including the alternative assessment for exited students verbage. The Superintendent then made a motion to approve the Notice of Supplemental Rulemaking for R7-2-306 regarding English Language Learners including the technical modifications identified by Ms. Farley out of those suggested by Tim Hogan. Board member Bittner seconded. Motion carried. (Please refer to call to the public section for specifics on public testimony)

- *Action and Review of CI Wilson Academy Compliance Status-*

Kristen Jordison (Executive Director of the State Board for Charter Schools) introduced this item to the Board. Michelle Diamond (Director of Government and Financial Affairs for the State Board for Charter Schools) provided in-depth background on this case. Ms. Diamond stated that her presentation would address discrepancies in the 2002 audit and explained that the main reason for a charter audit is to monitor compliance with the USFRCS and to reflect the school's financial stability. Ms. Diamond detailed that an indepent auditor must perform a charter's financial audit with a clean opinion on financial accountability. CI Wilson did not receive a 'clean opinion' from it's independent auditor, in fact, CI Wilson did not receive an a opinion from it's auditor stated no financial stability. The State Board for Charter Schools has given this audit to the Attorney General for further investigation. Current information concludes CI Wilson is in breach of it's charter contract and is not compliant with State and/or Federal laws. Dr. McLean provided a history of non-compliance of this school and that ever since he has been on the Board; CI Wilson has been up for non-compliance review for one issue or another. He feels it is appropriate to proceed with intent to revoke hearing process. Superintendent Horne made a motion to issue a notice of intent to revoke the charter. Ms. Bittner stated that she had concerns with issuing an intent to revoke and that she would feel more comfortable looking at the school's non-compliance history and having this issue be heard at the September meeting. Dr. McLean asked if the Board had a second. Ms. Hilde seconded the Superintendent's motion. (The vote of 4-1 made by the Board was a majority, however, the motion needs at least five affirmative votes to pass.) Motion Failed. Dr. McLean stated that this issue would be heard at the September Board meeting. (No action was taken on the request for additional site.)

Board Elections:

Superintendent Horne nominated, and Board Member Hilde seconded, Ms. Nadine Mathis Basha to serve as Board President, motion carried. Board Member Hilde nominated Dr. Matthew A. Diethelm to serve as Vice President, motion was seconded by Superintendent Horne, motion carried. Ms. Basha and Mr. Diethelm will assume their new positions at the September Board meeting.

Dr. McLean was then honored by his fellow Board members for his leadership on the Board.

Adjourn

Motion made by Ms. Basha, seconded by Ms. Hilde. Motion carried.